

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
SAFE DAM ACT
LAWS RELATING TO CONSTRUCTION, INSPECTION,
REPAIR AND SAFETY OF DAMS AND RESERVOIRS
TITLE 58, CHAPTER 4 OF THE REVISED STATUTES**

This act shall be known and may be cited as the "Safe Dam Act." The Commissioner of Environmental Protection shall, by rule, establish a periodic dam safety inspection and reporting procedure, on an annual or longer term basis, for the owner of any dam meeting the criteria contained in R.S. 58:4-1. The owner shall have a professional engineer inspect the dam and prepare and submit a report containing such information as the Commissioner may require, concerning the safety of said dam and appurtenant structures. Every dam which raises the waters of any stream more than 70 feet above its usual mean low-water height or which impounds more than 10,000 acre-feet of water shall be inspected on an annual basis by a professional engineer retained by the owner, in the company of a professional engineer assigned from the Department of Environmental Protection.

58:4-1 (a). No municipality, corporation or person shall, without the consent of the Commissioner of Environmental Protection, hereafter in this chapter designated as the Commissioner, build any reservoir or construct any dam, or repair, alter or improve existing dams on any river or stream in this State or between this and any other such state which will raise the waters of such river or stream more than five feet above their usual mean low-water height. No municipality, corporation or person shall, without the consent of the commissioner, build any reservoir or construct any dam, or repair, alter or improve existing dams in the pinelands area, as designated by subsection a. of section 10 of P.L. 1979, c. 111 (C. 13:18A-11), which will raise the waters of any river or stream more than eight feet above the surface of the ground where the drainage area above the dam or reservoir is more than one square mile in extent and where the water surface created by the dam or reservoir is more than 100 acres in extent. The Commissioner may investigate and take appropriate action regarding any dam or reservoir about which he has a security or safety concern. With respect to dams and reservoirs located on lands utilized for agricultural or horticultural purposes within the pinelands area, the Commissioner's actions shall be undertaken after consultation with the Secretary of Agriculture.

58:4-1 (b). The commissioner shall not require a permit for the repair of any dam used for agricultural purposes within special agricultural production area designated pursuant to N.J.A.C. 7:50-5.14 in the pinelands area (cf: P.L.1985, c.33, s.1)

58:4-2. Every municipality, corporation or person, before constructing any reservoir or dam subject to the provisions of this chapter shall apply to the Commissioner for the approval of the plans of such reservoir or dam, which approval the Commissioner may grant with such modifications, limitations or changes as in his judgement may be necessary for the protection of life and property.

58:4-3. Every municipality, corporation or person owning and maintaining or having control of any reservoir or dam shall, upon written request therefor, furnish to the Commissioner as full, true and particular description of the reservoir or dam as may be practicable, and shall, when so requested by the Commissioner cause to be such surveys, plans and drawings of the reservoir or dam as may be necessary to give sufficient information for the determination of its safety as may be required by the Commissioner.

58:4-4. Upon written application by any person owning or representing property liable to be injured or destroyed by the breaking of any reservoir or dam, or upon application by the mayor or governing body of any municipality on account of possible danger of loss of life or of injury to any property within the municipality from the breaking of any reservoir or dam, or without such complaint whenever the Commissioner shall choose, he shall forthwith thoroughly inspect such reservoir or dam.

58:4-5. If, in the judgement of the commissioner, any reservoir or dam is not sufficiently strong to resist the pressure of water upon it or there is reasonable cause to believe that danger to life or property may be anticipated from the reservoir or dam, or if for any other cause the commissioner shall determine the reservoir or dam to be unsafe or improperly maintained, the commissioner shall determine whether the water in the reservoir or above the dam shall be drawn off in whole or in part, and what alterations, additions and repairs are necessary to be made to the reservoir or dam to make it safe and properly maintained. The commissioner shall forthwith in writing order the owner or person having control of the reservoir or dam to cause the alterations, additions and repairs to be made within the time to be limited in the order. The commissioner also may order the water in the reservoir or above the dam to be drawn off in whole or in part as the commissioner may determine.

The commissioner shall not approve the decommissioning of a reservoir or dam until the commissioner has provided 30 days prior notice and the commissioner has complied with the provisions of R.S. 58:4-10 as applicable. The notice of the proposed decommissioning shall be published at least 30 days prior to the decommissioning of the reservoir or dam in at least one newspaper of general circulation in the municipality in which the reservoir or dam is located. The commissioner shall have the right to enter upon any and all properties for the purpose of obtaining information about the safety and proper maintenance of any reservoir, dam or appurtenant structures located therein.

58:4-6. If the owner or person having control of any reservoir or dam shall not forthwith comply with any order of the Commissioner made as provided in Section 58:4-5 of this Title or shall not prosecute the work, when commenced, with reasonable expedition, the Commissioner may direct the Attorney General to proceed in the name of the State to enforce its order in a court of competent jurisdiction. Action may be brought against the person controlling or owning the reservoir or dam, and the court may make such order and judgement in the premises as will effectually secure the persons interested from danger of loss from the breaking of the reservoir or dam complained of. The court may proceed in the action in a summary manner or otherwise. Any person who violates the provisions of this chapter shall be liable to a penalty of not more than \$5,000.00 for each offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

58:4.7. Repealed

58:4-8. The Commissioner may, when provided with sufficient funds, employ personnel for the inspection of existing reservoirs and dam and the supervision of the erection of new reservoirs and dams in this State or between this and any other state so that said structures may be built with due regard for the safety of property and life which might be endangered by improper construction thereof.

58:4-9. Where a reservoir or dam has been in existence 20 years and the owners of land along the shores above the dam or on the reservoir have made or shall have made permanent improvements on the land or where the shores have become a populated community, depending upon the permanency of the condition created, or where the reservoir or dam has become a valuable resource for the quality of life in the municipality in which the reservoir or dam is located, and a petition signed by a majority of the landowners along the shore of any pond formed by the reservoir or dam, or by any number of residents of the municipality in which the reservoir or dam is located, or by the governing body of the municipality, protesting against the removal of the reservoir, water or dam or the decommissioning of the reservoir or dam has been filed with the commissioner, the owner or owners of the reservoir or dam shall not, without the consent of the commissioner, tear down, destroy or abandon the reservoir or dam, or, except for the purpose of making necessary repairs, withdraw the water below the usual low-water mark, or maintain the water at the reduced level.

58:4-10. When a petition has been filed protesting against the removal of any reservoir, water or dam or against the decommissioning of any reservoir or dam as provided in R.S. 58:4-9, the commissioner shall hold a public hearing, upon 30 days notice to all parties interested, and following prior notice published 30 days before the hearing in at least one newspaper of general circulation in the municipality in which the reservoir or dam is located. Following this public hearing, the commissioner may make a determination concerning the removal of the reservoir, water or dam or decommissioning of the reservoir or dam and may then establish and fix a permanent low-water mark. Should it appear that the maintenance of the reservoir or dam would be an undue burden upon the owner thereof, the commissioner shall enter into negotiations with the landowners interested around the reservoir or above the dam, the governing body of the municipality in which the reservoir or dam is located, and any other parties to the petition filed with the commissioner protesting against the removal of the reservoir, water or dam or the decommissioning of the reservoir or dam, for the purpose of determining how and by whom the expenses of maintenance shall be paid.

Last Revision January 10, 1996